

SENATE BILL No. 272

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-26-5.

Synopsis: Orders for protection. Allows a person to petition for an order for protection against another person to order the other person: (1) to refrain from abusing, harassing, or disturbing the peace of the petitioner or a member of the petitioner's household; (2) to refrain from entering any property described in the petition; or (3) to refrain from damaging any property of the petitioner. Allows a person who is or has been the victim of stalking or a sex offense to file a petition for an order for protection against the person who committed the stalking or sex offense against the petitioner.

Effective: July 1, 2003.

Mrvan

January 9, 2003, read first time and referred to Committee on Judiciary.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

SENATE BILL No. 272

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-26-5-2, AS ADDED BY P.L.133-2002,
2 SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 2. (a) **A person may file a petition for an order
4 for protection on behalf of the person or a member of the person's
5 household against another person to order the other person:**

6 **(1) to refrain from abusing, harassing, or disturbing the peace
7 of the petitioner, by either direct or indirect contact;**

8 **(2) to refrain from abusing, harassing, or disturbing the peace
9 of a member of the petitioner's household, by either direct or
10 indirect contact;**

11 **(3) to refrain from entering the property of the petitioner, the
12 jointly owned or leased property of the petitioner and the
13 respondent if the respondent is not the sole owner or lessee, or
14 any other property as specifically described in the petition; or**

15 **(4) to refrain from damaging any property of the petitioner.**

16 **(b) A person who is or has been the victim of:**

17 **(1) stalking under IC 35-45-10-5; or**



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**(2) a sex offense under IC 35-42-4;
may file a petition for an order for protection against the person
who has committed stalking under IC 35-45-10-5 or a sex offense
under IC 35-42-4 against the petitioner.**

(c) A person who is or has been a victim of domestic or family violence may file a petition for an order for protection against a:

(1) family or household member who commits an act of domestic or family violence; or

(2) person who has committed stalking under IC 35-45-10-5 or a sex offense under IC 35-42-4 against the petitioner.

(d) A parent, a guardian, or another representative may file a petition for an order for protection on behalf of a child against a:

(1) family or household member who commits an act of domestic or family violence; or

(2) person who has committed stalking under IC 35-45-10-5 or a sex offense under IC 35-42-4 against the child.

(e) A court may issue only one (1) order for each respondent. If a petitioner files a petition against more than one (1) respondent, the court shall:

(1) assign a new case number; and

(2) maintain a separate court file;

for each respondent.

(f) If a petitioner seeks relief against an unemancipated minor, the case may originate in any court of record and, if it is an emergency matter, be processed the same as an ex parte petition. When a hearing is set, the matter may be transferred to a court with juvenile jurisdiction.

SECTION 2. IC 34-26-5-3, AS ADDED BY P.L.133-2002, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The division of state court administration shall:

(1) develop and adopt:

(A) a petition for an order for protection;

(B) an order for protection, including:

(i) orders issued under this chapter;

(ii) ex parte orders; and

(iii) no contact orders under IC 31 and IC 35;

(C) a confidential sheet;

(D) a notice of modification or extension for an order for protection;

(E) a notice of termination for an order for protection; and

(F) any other uniform statewide forms necessary to maintain

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1 an accurate registry of orders; and
 2 (2) provide the forms under subdivision (1) to the clerk of each
 3 court authorized to issue the orders.

4 (b) In addition to any other required information, a petition for an
 5 order for protection must contain a statement listing each civil or
 6 criminal action involving:

- 7 (1) either party; or
 8 (2) **if applicable**, a child of either party.

9 (c) The following statements must be printed in boldface type or in
 10 capital letters on an order for protection:

11 VIOLATION OF THIS ORDER IS PUNISHABLE BY
 12 CONFINEMENT IN JAIL, PRISON, AND/OR A FINE.

13 IF SO ORDERED BY THE COURT, THE RESPONDENT IS
 14 FORBIDDEN TO ENTER OR STAY AT THE PETITIONER'S
 15 RESIDENCE, EVEN IF INVITED TO DO SO BY THE
 16 PETITIONER OR ANY OTHER PERSON. IN NO EVENT IS
 17 THE ORDER FOR PROTECTION VOIDED.

18 PURSUANT TO 18 U.S.C. 2265, THIS ORDER FOR
 19 PROTECTION SHALL BE GIVEN FULL FAITH AND CREDIT
 20 IN ANY OTHER STATE OR TRIBAL LAND AND SHALL BE
 21 ENFORCED AS IF IT WERE AN ORDER ISSUED IN THAT
 22 STATE OR TRIBAL LAND. PURSUANT TO 18 U.S.C. 922(g),
 23 IT IS A FEDERAL VIOLATION TO PURCHASE, RECEIVE,
 24 OR POSSESS A FIREARM WHILE SUBJECT TO THIS
 25 ORDER.

26 (d) The clerk of the circuit court, or a person or entity designated by
 27 the clerk of the circuit court, shall provide to a person requesting an
 28 order for protection:

- 29 (1) the forms adopted under subsection (a);
 30 (2) all other forms required to petition for an order for protection,
 31 including forms:
 32 (A) necessary for service; and
 33 (B) required under IC 31-17-3; and
 34 (3) clerical assistance in reading or completing the forms and
 35 filing the petition.

36 Clerical assistance provided by the clerk or court personnel under this
 37 section does not constitute the practice of law. The clerk of the circuit
 38 court may enter into a contract with a person or another entity to
 39 provide this assistance.

40 (e) A petition for an order for protection must be:

- 41 (1) verified or under oath under Trial Rule 11; and
 42 (2) issued on the forms adopted under subsection (a).

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(f) If an order for protection is issued under this chapter, the clerk shall comply with IC 5-2-9.

SECTION 3. IC 34-26-5-5, AS ADDED BY P.L.133-2002, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. At a hearing to obtain an order for protection, each party has a continuing duty to inform the court of:

- (1) each separate proceeding for an order for protection;
- (2) any civil litigation;
- (3) **if applicable**, each proceeding in a family, domestic relations, or juvenile court; and
- (4) each criminal case;

involving a party or, **if applicable**, a child of a party. The information provided under this section must include the case name, the case number, and the county and state in which the proceeding is held, if that information is known by the party.

SECTION 4. IC 34-26-5-6, AS ADDED BY P.L.133-2002, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. The following rules apply to an order for protection issued under this chapter:

- (1) An order for protection is in addition to, and not instead of, another available civil or criminal proceeding.
- (2) A petitioner is not barred from seeking an order because of another pending proceeding.
- (3) A court may not delay granting relief because of the existence of a pending action between the petitioner and respondent.
- (4) If a person who petitions for an ex parte order for protection also has a pending case involving:
 - (A) the respondent; or
 - (B) **if applicable**, a child of the petitioner and respondent;
 the court that has been petitioned for relief shall immediately consider the ex parte petition and then transfer that matter to the court in which the other case is pending.

SECTION 5. IC 34-26-5-19, AS ADDED BY P.L.133-2002, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. **If applicable**, in a proceeding under this chapter, a court may appoint a guardian ad litem to represent the interests of a child of one (1) or both parents.

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